

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-220570

DATE: November 20, 1985

MATTER OF: NDT-1, Inc.

DIGEST:

Agency properly canceled a solicitation for sealed bids where it determined that sufficient funds were not available to make an award.

NDT-1, Inc. (NDT), protests the cancellation of invitation for bids (IFB) No. 3-157670 issued by the National Aeronautics and Space Administration (NASA) for nondestructive testing of pressure vessels at the Lewis Research Center, Cleveland, Ohio (Center).

We deny the protest.

The IFB was issued on June 12, 1985. Six sealed bids were submitted and were opened by the agency on August 23. NDT submitted the low bid and NASA anticipated that award would be made to NDT. On September 25, 1985, the requesting activity--the Center's Facilities Engineering Division--advised the contracting officer that funds for the procurement under the IFB were no longer available and, accordingly, the solicitation was canceled. The agency advises that the funds for the procurement were withdrawn so that such funds could be used to fund an emergency investigation which resulted from an explosion in the cooler system in the altitude exhaust system located in the Center's Engine Research Building. NASA advises that the decision was based on the immediate need for the investigation and the fact that the funds for the procurement in question were not yet obligated. NASA also points out that the services required under the IFB for nondestructive testing of pressure vessels were also included as part of contract No. NAS 3-24754 awarded on August 28, 1985, pursuant to a request for proposals which had been issued on April 15 by another procurement section for engineering, technical, and support services necessary for recertification of systems, including pressure vessels. Thus, the agency notes that it would have canceled the IFB under which NDT competed even if there had not been the need to withdraw the funds from such procurement for the emergency investigation.

The protester contends that, since funds were available to carry out nondestructive testing of pressure vessels under the negotiated contract, funds were available to carry out the procurement under the IFB which was canceled.

Cancellation of a solicitation after bids have been opened and prices have been exposed is not permitted unless a cogent and compelling reason for cancellation exists. International Alliance of Sports Officials, B-211049; B-211049.2, May 24, 1983, 83-1 C.P.D. ¶ 562. Our Office has held that an agency's determination that funds are not available for contract obligation is a sufficient reason to cancel a solicitation and that it is not our role to question the unavailability of funds. Id. and Genco Tool and Engineering Co., 61 Comp. Gen. 281 (1982), 82-1 C.P.D. ¶ 175. An agency has an unquestioned legal right to cancel solicitations because of lack of funds since the management of an agency's funds generally depends on the agency's judgment concerning which projects and activities shall receive increased or reduced funding. Somers Construction Company, Inc.--Reconsideration, B-193929, July 24, 1979, 79-2 C.P.D. ¶ 54. Accordingly, we find that NASA's determination to use the funds originally earmarked for testing of pressure vessels under this IFB for an investigation of the explosion represents a valid reason to cancel the IFB.

Since the unavailability of funds was by itself a sufficient basis for the cancellation of the IFB, we need not consider the matter as to whether the inclusion of the testing of vessels under the negotiated contract awarded August 28 also provided a proper basis for the cancellation of the IFB. See Military Base Management, Inc., B-216309, Dec. 4, 1984, 84-2 C.P.D. ¶ 619 at 3.

The protest is denied.

for Seymour E. Fios
Harry R. Van Cleve
General Counsel